

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Case No. 5:22-CV-00535-M-KS

ROSEMARIE E.B. RAY DUNN, JR.,

Plaintiff,

v.

KENNETH L. HOLDEN,

Defendant.

ORDER

This matter comes before the court for review of the Order and Recommendation (the “Recommendation”) filed on January 17, 2023, by Magistrate Judge Kimberly A. Swank in accordance with 28 U.S.C. § 636(b). DE 6. In the Recommendation, Judge Swank recommends that Plaintiff’s Complaint be dismissed for lack of subject-matter jurisdiction or for failure to state a claim upon which relief may be granted. *Id.* at 4. The Recommendation, which includes instructions and a deadline for objections, was served on Plaintiff on January 17, 2023. *See id.* at 4-5.

Within the timeframe allotted for objections, Plaintiff filed a letter with the court, DE 9, but that letter did not raise objections to any portion of the Recommendation, *see id.* at 1-3. The court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge,” 28 U.S.C. § 636(b), but need only “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made,” *id.* Notwithstanding that Plaintiff made no objections to the Recommendation, the court has reviewed the Complaint and the Recommendation and made a de novo determination which is in accord with the Recommendation. The court therefore adopts the Recommendation in full.

The Recommendation [DE 6] is hereby ADOPTED, and the Complaint [DE 7] is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) for lack of subject matter jurisdiction and § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted.

SO ORDERED this 28th day of August, 2023.



RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE